



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

MINUTES
of the meeting of the
COMMISSION ON ETHICS
August 13, 2008

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission's offices in Carson City and Las Vegas.

The Commission on Ethics held a public meeting on Wednesday, August 13, 2008, beginning at 10:00 a.m. at the following locations:

The Legislative Counsel Bureau, 401 South Carson St., Room 3143, Carson City, Nevada and the Grant Sawyer State Building, Legislative Counsel Bureau, 555 E. Washington Avenue, Room 4401, Las Vegas, Nevada.

The sites were connected by videoconference.

1. Call to Order, Roll Call.

Vice Chair Tim Cashman called the meeting to order at 10:01 a.m., Wednesday, August 13, 2008. Present in Carson City were Commissioners Erik Beyer, George M. Keele, Esq. and Paul H. Lambole, Esq.. Present in Las Vegas were Vice Chair Tim Cashman, Commissioners Randall V. Capurro and John T. Moran, III, Esq. Absent were Chair Mark Hutchison and Commissioner Jim Shaw.

Also present were Executive Director Patricia D. Cafferata, Esq., Adriana G. Fralick, Esq., General Counsel, Tami E. DeVries, Research Analyst, Michelle A. Ené, Executive Assistant and Michel Vavra, Investigator. Members of the public were asked to sign in, and the sign-in sheets are attached to the original minutes as Exhibit A.

2. Approval of minutes of the June 30, 2008 and July 17, 2008 meetings.

Commissioner Keele moved for the approval of the minutes of the June 30, 2008 meeting subject to his grammatical changes to be made. Keele will submit the changes to Michelle Ene. Commissioner Lamboley seconded the motion. The motion passed unanimously. Commissioner Beyer abstained from voting because he was not present at the June 30, 2008 meeting.

Lamboley moved for the approval of the minutes of July 17, 2008 subject to Keele's grammatical changes being made. Keele will submit the changes to Ene. Commissioner Moran seconded the motion. The motion passed unanimously. Beyer abstained from voting because he was not present at the July 17, 2008 meeting.

3. Action on Stipulation in Request for Opinion, 08-05C, relating to the conduct of Phil Salerno, Sparks City Councilman.

Keele moved that the Commission on Ethics deny the proposed Stipulation and move forward with a hearing. Commissioner Capurro seconded the motion. Moran recused himself from consideration of this stipulation because he was on the panel. The motion passed unanimously. The hearing is set for October 9, 2008.

4. Action on Commissioner Paul Lamboley's proposal to recommend to the Governor and Legislature a \$15 to \$25 fee to be added to the candidate filing fees for Commission on Ethics funding.

Lamboley gave a brief presentation. Cashman asked for comments on the proposal. Moran asked what the process would be for getting a \$15 to \$25 fee approved. Executive Director Patricia Cafferata stated that the language would have to be in the Commission's BDR on proposed legislation for the coming session. It would then have to be approved by the Legislature. Cafferata stated that Commission's BDRs have already been submitted. She is not sure if it could be added at this point. Cafferata stated that the fee proposal could be presented to the Legislature at the time that our budget bill is being presented. The proposal could be offered as an amendment.

Beyer stated that the fee may be seen by constituents as just another tax increase. Keele stated that this is not a tax so much as a means of sustaining current and historic biannual authorizations. The Commission needs to function at the minimum standard that the statute requires the Commission to meet to provide an appropriate level of service.

Cashman stated that it is a good proposal. Cashman directed Cafferata to investigate how the Commission proceeds with this idea and report back to the Commission.

5. Action on the Matter of the Request for Advisory Opinion, 08-29A, pursuant to NRS 281A.440.1 and .5, to hear testimony, receive evidence, deliberate, and render an opinion relating to the conduct of BILLIE SHEA, Chair of Nevada Board of Massage Therapists.

Moran moved that the Commission find that Billie Shea is not prohibited from serving as Chair of the Board while simultaneously serving as AMTA chapter President. Moran cautioned Shea that she would be prohibited in the event that she pursues both roles or dual presentation. She would be prohibited from seeking or accepting an emolument in exchange for her departure from her public duties, per NRS 281A.400.1. She is also prohibited, consistent with NRS 281A.400.2, from using her public position for an unwarranted benefit to herself or the AMTA.

Moran suggested that Shea look at the Woodbury decision in terms of whenever a matter that affects her and the AMTA comes before the Nevada Board of Massage Therapists, she will be required to disclose her interests to AMTA and must abstain where necessary. Capurro seconded the motion.

Keele asked that Moran's motion include all of the pertinent statutory language in both NRS 281A.400.1 and NRS 281A.400.2. Moran moved to amend his motion. Capurro seconded the amended motion.

Lambole asked that Moran's motion also include the abstention and disclosure statutes NRS 281A.420.2 and NRS 281A.420.4. Moran moved to amend his motion to include NRS 281A.420.2 and NRS 281A.420.4. Capurro seconded the amended motion. The motion passed unanimously.

6. Action on Budgets for 2009, 2010-2011 fiscal years.

Cafferata stated that the Attorney General's Costs allocation is a federal requirement and that the AG spread the costs of receiving federal funds over all state agencies. Attorney General Cost Allocation Plan is a federally approved method used to charge agencies for legal services. The formula for recovering funds is based on prior years' costs and attorney hours provided by the Attorney General. Cafferata stated that the Ethics Commission did use the Attorney General's services briefly a few years ago.

If an agency doesn't get federal funds, then the agency is billed the hourly rate established in the plan. Therefore, the Commission's charges for the Attorney General's legal services should have been based on actual services provided. Cafferata stated that the 2009 budget was approved by the Legislature in 2007 and that it cannot be changed now. The Commission will have to pay the \$50,000 that is now in our budget for 2009.

Cafferata stated that the other issue that is hurting the Commission's budget is that the Commission's local government support is being cut. These funds do not go to the general fund; the money goes back to local governments.

Cashman stated: (1) that the Commission has the third smallest budget in the state; and (2) that the Commission has five staff members are the strongest talking points to bring before the Legislature with regard to the Commission's budget.

Cafferata asked the Commission for direction as to where the Commissioners would like to make the budget cuts for Fiscal Years 2010 and 2011.

Keele moved that the Commission defund the position of investigator and if necessary, close the Las Vegas office for the next fiscal year, in that order, and that the Commission pursue any and all opportunities to foreclose those two things from happening. Keele stated that it is with the most extreme reluctance that the Commission make this motion, and not any Commissioner supports this motion but the Commissioners feel they absolutely have no alternative. Beyer seconded the motion. The motion passed four to one, with Lamboley voting no. Moran was not present and did not vote.

Lamboley through the Chair asked Cafferata to provide the Commission with the final line budget that is submitted to the Governor's office.

A lunch recess was taken at 12:22 p.m. The meeting reconvened at 1:05 p.m.

7. Action on Motion from Requestor in Request for Opinion 08-04C on Senator Warren Hardy.

Cashman stated that he was not able to participate in the hearing because he served on the panel. Cashman moved to appoint Lamboley Acting Chair for this agenda item and agenda item 7. Beyer seconded the motion. The motion passed unanimously.

Keele moved that because NAC 281A.060 defines party as both: (1) the subject of the request; and (2) any other person the Commission determines will be treated as a party in the matter before the Commission, the term does not include the requester of an ethics complaint unless the Commission in its discretion determines otherwise. Therefore, Mr. Miller should not be granted party status in this matter. Capurro seconded the motion. The motion passed unanimously.

Lamboley stated that the motion passed unanimously; that Mr. Miller will not be granted party status for the purpose of filing the motion; and that since Miller is not a party, the motion is not properly before the Commission.

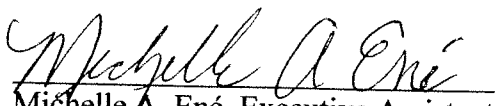
General Counsel Fralick asked Lamboley for clarification for the record, that the Commission's interpretation is that you have to be a party in order to file a motion. Lamboley stated that was correct. Since Miller was not granted party status for considering the motion, the motion failed and was denied.

8. Public comment.


No public comment was made.

Lamboley adjourned the meeting at 1:37 p.m.

Minutes transcribed by:


Michelle A. Ené, Executive Assistant

Minutes approved September 11, 2008:


Tim Cashman, Vice Chair

NEVADA COMMISSION ON ETHICS
NEVADA STATE LEGISLATURE, ROOM 3143, CARSON CITY, NEVADA
AUGUST 13, 2008 AT 10:00 A.M.

NAME	MAILING ADDRESS	PHONE	E-MAIL ADDRESS	REPRESENTING
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